

No. 11096

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

---

SISQUOC RANCH COMPANY, a Corporation, on its  
own behalf and on behalf of Homer Sheldon Green,  
Appellants,

vs.

MAX ROTH, Lt. Colonel, Infantry, Army of the United  
States,  
Appellee.

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**TRANSCRIPT OF RECORD**

Upon Appeal from the District Court of the United States  
for the Southern District of California,  
Central Division

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FILED

AUG 27 1945

PAUL P. O'BRIEN,  
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS:

For Appellants:

OVERTON, LYMAN, PLUMB, PRINCE &  
VERMILLE,

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Los Angeles 14, Calif.

For Appellee:

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United States Attorney,

RONALD WALKER and ROBERT E. WRIGHT,  
Assistants U. S. Attorney,  
600 U. S. Post Office and Court House Bldg.,  
Los Angeles 12, Calif. [1\*]

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\*Page number appearing at foot of Certified Transcript.

In the District Court of the United States  
Southern District of California

Central Division

No. 4369-O'C Civil

In the Matter of the Petition of SISQUOC RANCH COMPANY, a corporation, on its own behalf, and on behalf of HOMER SHELDON GREEN, for a Writ of Habeas Corpus.

PETITION FOR WRIT OF HABEAS CORPUS

To the Honorable, the Judges of the United States District Court, Southern District of California, Central Division:

The petition of Sisquoc Ranch Company, a corporation, on its own behalf and on behalf of Homer Sheldon Green, respectfully shows as follows:

I.

That Sisquoc Ranch Company is a corporation duly organized and existing under and by virtue of the laws of the State of California, with its principal place of business located in the County of Santa Barbara, State of California, and within the Southern District of California.

That Homer Sheldon Green is a citizen of the United States and is of the age of 21 years. [2]

II.

That Homer Sheldon Green is unlawfully detained, confined and restrained of his liberty by Colonel W. W. Hicks, Commanding Officer, of Fort MacArthur, in Los



Angeles County within this district, by virtue of his wrongful and unlawful induction into the Armed Forces of the United States pursuant to the wrongful and unlawful reclassification of the said Homer Sheldon Green, on or about December 21, 1944, by Local Board No. 144, in the City of Santa Maria, County of Santa Barbara, State

[FEC]

of California, and on or about January 31, 1945, by the Santa Barbara County Appeal Board, from Class II-C to Class I-A; that said detention, confinement, *restrain*, induction and reclassification, and each of such acts, were unlawful, null and void, illegal and without authority of law, for the reasons hereinafter set forth.

### III.

That this petition is filed by your petitioner Sisquoc Ranch Company, on its own behalf as the employer of the said Homer Sheldon Green, and also on behalf and at the request of the said Homer Sheldon Green, who is now in custody of Colonel W. W. Hicks, and is in peril of being removed from the jurisdiction of this Honorable Court before he can act in person.

### IV.

That on or about June 30, 1942, Homer Sheldon Green duly registered with Local Board No. 144, located in Knights of Pythias Building, in the City of Santa Maria, County of Santa Barbara, State of California, and has duly complied with all of the terms and provisions of the Selective Training and Service Act of 1940, as amended, the regulations promulgated thereunder, and the proclamation pertaining thereto as issued by the President of the United States; that the order number of Homer Sheldon Green is 12901. [3]

**V.**

That said Local Board No. 144 had powers granted to it by the said Selective Training and Service Act, as amended, the regulations promulgated thereunder, and the proclamation of the President of the United States, to classify registrants for service in the Armed Forces of the United States, and for limited service, and to grant deferments and exemptions.

**VI.**

That petitioner Sisquoc Ranch Company owns and operates a ranch consisting of more than 41,000 acres of land situated in the County of Santa Barbara, State of California, and extending over approximately 30 miles of the Sisquoc River water-shed; that the said ranch is devoted to agriculture, including the production of barley, oats, beans, sugar-beets, cauliflower, potatoes, hay, grain, alfalfa and numerous other food-stuffs and agricultural commodities; that the said petitioner Sisquoc Ranch Company also owns and ranges a very large quantity of livestock on its said ranch; that approximately 1,000 head of beef are marketed annually and made available for military and civilian consumption.

**VII.**

That Homer Sheldon Green was employed by petitioner Sisquoc Ranch Company during the month of October, 1943, and was continuously so employed until he was wrongfully and unlawfully inducted into the Armed Forces of the United States as hereinafter set forth. That Homer Sheldon Green was, at the time of said induction and for a long time prior thereto had been, employed by petitioner Sisquoc Ranch Company as its Assistant Superintendent; that as said Assistant Superintendent Homer Sheldon Green had complete charge of op-

erations at ranch headquarters at all times during the absences of the Superintendent from said headquarters; that the duties and responsibilities of Homer Sheldon Green, as said Assistant Superintendent, consisted, among other things, of [4] the following: (a) charge of feeding of pen-fed beef; (b) operation, maintenance and care of numerous steam and gas engines maintained on said ranch; (c) operation and maintenance of a large electric generating plant furnishing light and power to said ranch properties; and (d) maintenance of the ranch irrigation system, and of all fences and inclosures used in the production of livestock.

### VIII.

That due to the stress of war conditions and labor problems in agriculture, your petitioner Sisquoc Ranch Company has been subjected to acute and critical labor shortages; that aside from the Superintendent, said Homer Sheldon Green was the only other permanent employee capable of exercising responsibility in connection with the ranch operations; that in addition to the Superintendent and Homer Sheldon Green, your petitioner has at various times during the last two years only been able to employ from two to eight men to assist in the operation of said ranch; that all other employees have been what is commonly known as "floating labor," which has been very unreliable as to ability and duration of employment; that due to such critical labor situation the number of employees has been greatly reduced, and that at times during the months of December, 1944, and January, 1945, petitioner had only two employees in addition to said Superintendent and Homer Sheldon Green. That Homer Sheldon Green is a skilled agricultural worker and qualified as a gas, steam and electrical mechanic.

**IX.**

That by reason of the facts aforesaid Homer Sheldon Green is vitally and critically needed by your petitioner in its said multitudinous agricultural operations, and no satisfactory replacement can be obtained for his said employment. [5]

**X.**

That your petitioner Sisquoc Ranch Company did, on October 26, 1943, file with said Local Board No. 144, an affidavit on Selective Service DSS Form No. 42 claiming deferred classification for said Homer Sheldon Green, a true copy of which is attached hereto, marked Exhibit A, and made a part of this petition; that subsequently on March 30, 1944, your petitioner filed another affidavit with the said Local Board No. 144 on Selective Service Form No. 42 stating additional facts in support of said claim for an occupational classification for Homer Sheldon Green, a true copy of which is attached hereto, marked Exhibit B, and made a part of this petition; that in said affidavits your petitioner Sisquoc Ranch Company stated the facts as above set forth regarding your petitioner's agricultural activities and duties and responsibilities of Homer Sheldon Green and the acute labor conditions confronted by your petitioner.

**XI.**

That under date of July 11, 1944, Robert B. Hollister, Chairman, Santa Barbara County, United States Department of Agriculture War Board, wrote the following recommendation to the said Local Board No. 144, in regard to Selective Service registrant Homer Sheldon Green:

"The Santa Barbara County USDA War Board has examined the above case and finds this man has

become even more critical since the last investigation. The manpower shortage on this large ranch puts an additional responsibility on the registrant. He is responsible for the maintenance of the irrigation system in connection with the irrigating land and for the maintenance of fences, etc., in connection with the production of the large volume of beef cattle. Deferment strongly recommended." [6]

## XII.

That said Local Board No. 144, on or about July 22, 1944, classified the said Homer Sheldon Green in Class II-C, the said class being the category specified by Selective Service regulations for deferment of persons found by said Local Board to be "necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort, and for whom a satisfactory replacement cannot be obtained."

## XIII.

That the Tydings amendment to the Selective Training and Service Act, 50 U. S. C. A. (Appendix) Section 305, subdivision K, provides as follows, in part:

"Every registrant found by a selective service local board \* \* \* \* to be necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort, shall be deferred from training and service in the land and naval forces so long as he remains so engaged and until such time as a satisfactory replacement can be obtained \* \* \* \*."

That on or about July 22, 1944, said Local Board No. 144, in classifying Homer Sheldon Green in Class II-C, found that said registrant was "necessary to and regularly engaged in an agricultural occupation or endeavor

essential to the war effort"; that in utter disregard of the express requirement of the said Tydings amendment, that any registrant found to be so engaged shall be deferred from training and service "so long as he remains so engaged and until such time as a satisfactory replacement can be obtained," the said Local Board No. 144, on or about December 21, 1944, without any advance notice of any nature whatsoever given either to your petitioner Sisquoc Ranch Company or Homer Sheldon Green, and without receiving any new evidence whatsoever as to whether or not said registrant remained engaged in an agricultural occupation or [7] endeavor essential to the war effort, or as to whether or not a satisfactory or any replacement could be obtained for said registrant, and without considering any new evidence whatever, and without giving Homer Sheldon Green any hearing whatever, either before or after said date, and without giving your petitioner any hearing or opportunity for a hearing at any time, arbitrarily, capriciously and in violation of the Selective Training and Service Act, as amended particularly by the aforesaid Tydings Amendment, and in violation of the rights of Homer Sheldon Green and your petitioner under the Constitution of the United States and, in particular, under the Fifth Amendment thereof, classified Homer Sheldon Green into Class I-A, thereby making said registrant immediately eligible for service in the Armed Forces of the United States.

#### XIV.

That your petitioner thereupon duly appealed said classification to the appropriate Appeal Board and Agency, and that said Appeal Board, acting on said appeal, with-

[FEC]

out a dissenting vote continued Homer Sheldon Green in

Class I-A; that your petitioner Sisquoc Ranch Company and Homer Sheldon Green were advised of such action by said Appeal Board through a Classification Advice

5 [FEC]

dated February 27, 1944; that subsequently on March 3, 1945, your petitioner Sisquoc Ranch Company, by letter, requested said Local Board No. 144, to reclassify Homer Sheldon Green into Class 2-C; that a copy of said letter is attached hereto, marked Exhibit C, and made a part of this petition.

**XV.**

That on March 6, 1945, Fred J. Goble, Government Appeal Agent, wrote a letter to Colonel K. H. Leitch, State Director of Selective Service, Plaza Building, Sacramento 14, California, as follows:

Dear Sir: Subject: Homer Sheldon Green, Order 12901

"The Board of Appeal of Santa Barbara County [8] classified Homer Sheldon Green, Order No. 12901, in Class I-A on January 31, 1945. He is engaged in agriculture and is employed by the Sisquoc Ranch Company.

"I deem it to be in the national interest and necessary to avoid an injustice that you consider his claim for deferment and request the Board of Appeal to reconsider its determination or appeal to the President.

"I therefore recommend that you either request the Board of Appeal of Santa Barbara County to reconsider its determination or appeal to the President.

"In accordance with Section 627.61 of the Selective Service Act I request that Local Board 144 for-

ward the registrant's file to you for your consideration."

That under date of March 16, 1945, Lieutenant Commander J. P. Puffinbarger, USNR for the State Director, wrote a letter to Fred J. Goble, in answer to the aforesaid letter, denying the request made therein.

#### XVI.

That on or about the 17th day of March, 1945, Homer Sheldon Green received an induction order from said Local Board No. 144, informing him that he had been selected for training and service in the Land or Naval Forces of the United States, and directing him to report to said Local Board at Veterans Memorial Building, Pine and Tunnell Streets, Santa Maria, California, on the 30th day of March, 1945; that said order stated that said Local Board No. 144 would furnish the said Homer Sheldon Green transportation to an Induction Station, and that he would be there examined and, if accepted for training and service, would then be inducted into [9] the Land or Navy Forces; that said Homer Sheldon Green did report in the manner and at the time as requested in the said order, and was thereafter, on the said 30th day of March, 1945, transported by the said Local Board No. 144 to the City of Los Angeles, California, and delivered to the Armed Forces Induction Station, at the Pacific Electric Building, 610 South Main Street, in the said City of Los Angeles, and was there given a physical examination; that on the 31st day of March, 1945, the said Homer Sheldon Green was given an order signed by Captain  
[FEC]

Wyman W. Croy, Assistant Induction Officers, and dated March 31, 1945, advising said Homer Sheldon Green



that he had been found acceptable for service in the Armed Forces of the United States pending result of his blood test, and ordering him to report on April 6, 1945, at not later than 7:45 A. M., to Room 390, Pacific Electric Building, 610 South Main Street, at which time he was to be prepared to leave for the Reception Center, Fort MacArthur, California.

### XVII.

That under date of April 5, 1945, Robert B. Hollister, Chairman of the United States Department of Agriculture, War Board for Santa Barbara County, California, wrote a letter to said Local Board No. 144 again strongly recommending continued deferment of the said Homer Sheldon Green; that the said letter reads in part as follows:

“WB Form No. 26 Revised. Nature of duties now being performed by registrant: Assistant Superintendent of ranch in full charge when Superintendent is absent for several days in upper ranch working cattle. As electric power is not available he has responsibility of servicing gas engines, supplying irrigating water from four wells equipped with heavy duty pump. He is a skilled mechanic and operator of tractor and bulldozer for grading and [10] leveling of land. He repairs and remodels ranch buildings and housing units. Present duties include feed and rationing of 100 head of beef steers now in feed-pens.

“This registrant is a steady and dependable worker. He is a trained man in agriculture, including livestock. The Farm Labor Office at Santa Maria states that they have no replacement available.

## "Action of County War Board

"The Santa Barbara County USDA War Board has investigated this registrant and finds that he is continuing to be a very essential man in agriculture. The ranch which is the largest in Santa Barbara County, is inadequately manned at the present time. They are one of the largest beef producer ranches in the county. Among one of the important crops produced annually is 2500 tons of sugar-beets as well as beans and vegetables. We therefore strongly recommend continued deferment."

That on April 5, 1945, your petitioner Sisquoc Ranch Company delivered the above quoted letter of the United States Department of Agriculture War Board to the said Local Board No. 144, requesting said Local Board to reconsider its action in classifying Homer Sheldon Green in Class I-A and requesting said Local Board No. 144 to place the said Homer Sheldon Green in Class II-C, and furthermore requesting said Local Board to revoke the aforesaid induction order; that the said Local Board has failed to act in any manner or at all on the aforesaid letter of the Department of Agriculture War Board or to grant any of the requests made by your petitioner on April 5, 1945. [11]

## XVIII.

That as required by the order of March 31, 1945, issued by Captain Wyman W. Croy referred to in paragraph XVI above, the said Homer Sheldon Green did report at the time and place required and was thereafter wrongfully and illegally inducted into the Armed Forces of the United States.

XIX.

That the aforesaid classification of Homer Sheldon Green into Class I-A on or about December 21, 1944, the said action of the Appeal Board, the said induction order, the failure of the said Local Board No. 144 to act on your petitioner's letter of March 3, 1945, or on its requests of April 5, 1945, the induction of Homer Sheldon Green into the Armed Forces of the United States, the present detention, confinement, restraint and custody of Homer Sheldon Green by Colonel W. W. Hicks, as aforesaid, and each of such acts, were arbitrary, capricious, unlawful, null and void, illegal, without any authority in law and in violation of the rights of Homer Sheldon Green and your petitioner Sisquoc Ranch Company, under the Constitution of the United States and, in particular, under the Fifth Amendment thereof, in that:

1. The said reclassification of said Homer Sheldon Green from Class II-C to Class I-A, and the said induction order were in violation of the Tydings Amendment to the Selective Training and Service Act (Title 50 App. U. S. C. A. Sec. 305, Subd. K).

2. The said reclassification of Homer Sheldon Green from Class II-C to Class I-A and the said induction order were not founded on substantial or any evidence whatever.

3. Your petitioner was given no hearing or opportunity for hearing by Local Board No. 144 on said reclassification from Class II-C to Class I-A [12] at any time or at all.

4. Homer Sheldon Green was given no hearing by said Local Board No. 144 on said reclassification from Class II-C to Class I-A, at any time or at all.

5. On the basis of all the evidence submitted to said Local Board No. 144, prior to the wrongful and unlawful induction of said Homer Sheldon Green into the Armed Forces of the United States, as aforesaid, the said Local Board should have classified the said Homer Sheldon Green in Class II-C and should have revoked its aforesaid induction order.

## XX.

That Homer Sheldon Green is as of the time and date of the filing of this petition, and has from the date of his induction been, wrongfully restrained of his liberty and held in wrongful custody by the Armed Forces of the United States at Fort MacArthur, San Pedro, California, and within this District; that Colonel W. W. Hicks is now the Commanding Officer at said Fort MacArthur, and as such wrongfully holds the said Homer Sheldon Green in custody; that the said Homer Sheldon Green was, as of the date of the filing of this petition, and has since he was inducted been, restrained and deprived of his liberty exclusively under and by color of the authority of the United States.

Wherefore, your petitioner prays:

That a writ of Habeas Corpus issue from this Honorable Court directed to Colonel W. W. Hicks, Commanding Officer at Fort MacArthur, aforesaid, and whomsoever may hold Homer Sheldon Green in custody, commanding him or them to have the body of Homer Sheldon Green before the District Court of the United States for the Southern District of California, Central Division, Federal Building, Los Angeles, California, on the 16 day [J. F. T. O'Connor, Judge.] eleven o'clock A. M. of April, [13] 1945, at the opening of Court on that day,

or at such other time as in such writ shall be specified, for the purpose of inquiring into the cause of the restraint and detention of Homer Sheldon Green, and to do and abide such order as the Court may make in the premises.

SISQUOC RANCH COMPANY

By R. E. EASTON

Petitioner

OVERTON, LYMAN, PLUMB, PRINCE &  
VERMILLE,

Attorneys for Petitioner.

[Verified.] [14]

[EXHIBIT "A".]

ADDITIONAL INFORMATION ON  
CLAIM FOR DEFERRED CLASSIFICATION

Made Oct. 8, 1943

BY PERSON OTHER THAN REGISTRANT

Sisquoc Ranch Company hereby claims deferred classification for Homer Sheldon Green - Order No. 12901-2C, based on the following facts:

(Local Board No. 144, Santa Barbara County, Santa Maria, California)

Sisquoc Ranch Company, a corporation, desires to submit the following additional information in support of claim for deferment of above deferee.

Said Homer Sheldon Green has not only worked on farms and ranches over a period of years, but has also been employed by a contractor in construction work.

Owing to the extreme shortage of man power, Sisquoc Ranch Company has been obliged to postpone maintenance of springs, water supply lines, corrals, loading chutes, fencing, feed lot troughs and equipment. The lack of maintenance has reached an acute stage. Homer Sheldon Green has been trained to meet the requirements of the work vitally necessary at this time.

As a side issue, he is qualified to greatly improve the ranch supply of poultry and eggs.

The above will supplement the request of October 8, 1943, for deferment of Homer Sheldon Green for a period of one year. My relationship or association with the named registrant is nil. I, Robert E. Easton, do solemnly swear (or affirm) that the above facts are true.

R. E. Easton, Secretary  
 (Signature of claimant)  
 Sisquoc Ranch Company  
 (Address of claimant)  
 P.O. Box 459  
 Santa Maria, California

Subscribed and sworn to before me this 26 day of October, 1943. [15]

.....  
 (Signature of official administering oath)

.....  
 (Official designation of official administering oath)

(See other side for Instructions)

D.S.S. Form 42

16-18393-1

(Revised 4-13-42) [16]

Instructions for use of Claim for Deferred Classification by Persons Other than Registrant.

Any person desiring to make claim for deferred classification on behalf of a registrant must file a claim with the registrant's local board within the time allowed for the registrant to return his questionnaire.

All claims for deferred classification for a registrant must be made by sworn affidavit as shown on the reverse side of this page.

Any person so claiming that the registrant should be deferred shall be entitled to present evidence in support of his claim. Such evidence should be included in or attached to this form, and may include any documents, affidavits, or depositions supporting the claim. The affidavits or depositions shall be as concise and brief as possible.

The oath required by this form may be administered by:

1. Any civil officer authorized to administer oaths generally.
2. Any commissioned officer of the land or naval forces assigned for duty with the Selective Service System.
3. Any member or clerk of a local board or board of appeal.
4. Any Government appeal agent or associate Government appeal agent.
5. Any member or associate member of any advisory board for registrants.
6. Any postmaster, acting postmaster, or assistant postmaster.

No fee shall be charged by any person for administering the oath required on this form.

## [EXHIBIT "B".]

Budget Bureau  
 No. 33-R001  
 Approval Expires  
 9-30-43

SELECTIVE SERVICE SYSTEM  
 AFFIDAVIT - OCCUPATIONAL CLASSIFICA-  
 TION (GENERAL)

(This form is provided for use in activities where Affidavit-Occupational Classification (Industrial), Form 42A, is not applicable)

Name Homer Sheldon Green

Selective Service Order No. 12901- -C Age 20

Local Board 144 Santa Barbara Santa Maria California  
 (Number) (County) (City) (State)

Under date of January 10, 1944, above Homer Sheldon Green was classified in Class 2-C until April 4, 1944.

Sisquoc Ranch Company, a corporation, supplementing claims for deferment of the above applicant, dated October 8, 1943, and October 26, 1943, desires to submit the following, as shown on the attached letter sheets, numbered and initialed, which are made a part of this affidavit.

I, R. E. Easton, do solemnly swear (or affirm) that the foregoing and attached statements are true to the best of my knowledge and belief.

R. E. E. Secretary of  
 (Signature)

SISQUOC RANCH COMPANY  
 P.O. Box 459, Santa Maria, Calif.  
 (Address)



Subscribed and sworn to before me this 30th day of  
March 1944

Helen Poole

-----  
(Signature of official administering oath)

Clerk of Board

(Official designation of official administering  
oath)

(See other side for instructions)

Form 42 (Revised 9-15-42)

16-30298-3 [18]

AFFIDAVIT – OCCUPATIONAL CLASSIFICA-  
TION (GENERAL)

(This form is provided for use in activities where  
Affidavit – Occupational Classification (Industrial), Form  
42A, is not applicable)

This form is to be filled out by an employer or any  
other person who has knowledge of the registrant's eligi-  
bility for Class II deferment as a necessary man in his  
civilian occupation or activity.

Evidence submitted to the local board may be included  
in or attached to this form and may include any docu-  
ments, affidavits, or other information.

If the registrant is deferred, the employer must notify  
the local board promptly of any change in his job status,  
or if his employment is terminated.

The oath required by this form may be administered  
by any civil officer authorized to administer oaths gen-  
erally, any commissioned officer of the land or naval  
forces assigned for duty with the Selective Service Sys-  
tem, any member or clerk of a local board or board of

appeal, any Government appeal agent or associate Government appeal agent, any member or associate of an advisory board for registrants, any postmaster, acting postmaster, or assistant postmaster.

No fee shall be charged by any person for administering the oath required on this form.

16-30298-1 [19]

Sisquoc Ranch Company is the owner and operator of 41,508 acres of land, consisting of Sisquoc Grant and adjacent government lands, extending over approximately thirty miles of the Sisquoc River, including 2705 acres of the Tinaquaic Grant in Foxen Canyon.

With three tenants, 2100 acres are under cultivation for barley, oats, beans, sugar beets, lettuce and cauliflower. Included in this acreage, Sisquoc Ranch Company farms on its own account approximately 300 acres for hay and, until this present crop season, 100 acres of irrigated alfalfa of which area one-half is being rotated to another crop this season.

For the irrigation of sugar beets, vegetables and alfalfa, the surface flow of the Sisquoc River is available until the month of July. For the summer and fall months, water for irrigation must be supplied by pumping from four wells. As electric power is not available, gas engine power must be used.

Sisquoc Ranch Company ranges livestock over the entire area, including, under permit, a considerable area of the Los Padres Forest. Approximately 1,000 head of beef are marketed annually, partly from the range, but mostly from feed pens. Beef is finished by the use of barley and alfalfa hay and rolled barley produced and

rolled on the ranch, together with cottonseed cake purchased.

Besides the ranch headquarters, additional headquar-

1.

ters [20] are maintained in two locations, one known as the Tunnell House, 13 miles Southeast along the Sisquoc River and another at the Sisquoc Mine, approximately 8 miles South of the ranch headquarters.

For the season of 1943, 800 calves were marked at these locations.

All fencing, supplying of irrigating water, including the maintenance of pumping plants, springs and troughs for livestock and general maintenance are undertaken by Sisquoc Ranch Company.

The present employees of the ranch are as follows:

- |                           |  |
|---------------------------|--|
| Kenneth L. Winsor,        | Superintendent; age 37; classification 2-C, Order No. 819, Local Board 171, Orange Co., Newport Beach; employment began Dec. 1, 1942.                                  |
| Montie Logan,             | Rider; age 51; employment began May 4, 1943.   |
| Alva W. Kooken,           | Rider; age 44; employment began Oct. 1, 1943.  |
| Alva W. Kooken,           | Rider; age 44; employment began Oct. 1, 1943.  |
| Theodore Delmo<br>Muscio, | Assistant rider and general ranch worker; age 37; classification 2-C, Order No. 1916, Local Board 144, Santa Barbara Co., Santa Maria; employment began Feb. 10, 1944. |

Homer Sheldon Green, Sub-foreman at Ranch Headquarters during absence of superintendent, tractor driver and gas engine man; age 20; employment began October 15, 1943.

Robert Garcia, Chore boy; age 18; employment began Mar. 13, 1944.

Said Homer Sheldon Green, by experience and adaptability, is qualified to take charge of operations at headquarters during the necessary absence of the superintendent for several days at a time at the outlying parts of the ranch. He will be in charge of beef feeding, the operation of gas engines and the operation of tractors on the crop [21]

## 2.

land.

He has worked as a farm hand over a period of four years, having graduated from the Santa Ynez Union High School.

It is now submitted that continued deferment be granted in the case of Homer Sheldon Green, on the basis that he is a key man in agricultural operations, that he, by training, intelligence and experience, may be classified as a skilled man in agriculture, and that he can not be replaced.

Respectfully,

R. E. E.

Secretary SISQUOC RANCH COMPANY

[EXHIBIT "C".]

James H. Bishop, President	
Frank Bishop, Vice-President	Address:
R. E. Easton, Secretary	Santa Maria, Cal.
John E. Porter	Kenneth Winsor
Edward P. Pfingst	George Begg
N. L. Tyler	Ranch Superintendent

1-15-42-2M

SISQUOC RANCH COMPANY

Cattle

Hay, Grain, Beans and Alfalfa  
Sisquoc Ranch, Santa Barbara County, Cal.  
Santa Maria, Cal.

March 3, 1945

Selective Service System  
Local Board No. 144-91  
Santa Barbara County 083  
Santa Maria, California

Re: HOMER SHELDON GREEN, Order No. 12901, Under Jurisdiction Selective Service System, Local Board No. 144-91, Santa Barbara County 083, Santa Maria, California. Classified 2-C, July 22, 1944; Reclassified 1-A, Dec. 21, 1944. Appeal taken Jan. 2, 1945 through Santa Barbara County U. S. Department of Agriculture War Board; Appeal Denied by Appeal Board, Feb. 27, 1945.

Sirs:

Sisquoc Ranch Company is the owner and operator of 41,508 acres of land, consisting of the Sisquoc Grant of 35,000 acres and adjacent Government lands extending

over approximately 30 miles of the Sisquoc River watershed, and including 2,705 acres of the adjoining Tinaquaic Grant in Foxen Canyon.

With three tenants, 2,100 acres are under cultivation for barley or oats, and beans, with approximately 300 acres under irrigation for the production of sugar beets, cauliflower and/or potatoes. Included in this acreage, Sisquoc Ranch Company farms on its own account, approximately 300 acres for grain hay and alfalfa.

For the irrigated crops, the surface flow of the Sisquoc River is available until the month of June or July. For the summer [23] and fall months, water for irrigation must be supplied by pumping from wells. As electric power is not available, gas engine power must be employed. Sisquoc Ranch Company is responsible for the water supplied for irrigation.

Sisquoc Ranch Company ranges live stock over the entire area (excluding the farming land) together with a considerable range in the Los Padres National Forest, under Forest Reserve permit. [24]

Re: Homer Sheldon Green

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Besides the Ranch Headquarters, additional headquarters are maintained at two locations, one at the Tunnell House, thirteen miles Southeast along the Sisquoc River and another at the Sisquoc Mine, approximately eight miles South of the Ranch Headquarters. In the Seasons of 1943 and 1944, approximately 800 calves were marked at these locations.

All fencing, supply of irrigating water, including the maintenance of pumping plants, springs and troughs for live stock, and general maintenance of all roads, buildings and improvements is undertaken by Sisquoc Ranch Company.

Registrant, Homer Sheldon Green, a High School graduate, has been in the employ of Sisquoc Ranch Company continuously for a period of one year and five months, after prior mechanical and agricultural experience.

Said registrant is not only a skilled gas engine man, truck and automobile mechanic, but also a tractor and bulldozer operator. He may be classified as a TRAINED AND ESSENTIAL MAN IN AGRICULTURE, having charge of the proper rationing to pen fed beef now under his supervision at the Ranch. He operates the steam and gas engine plants necessary for the milling of barley for beef production.

The services of a mechanic are continually necessary, including care of the Delco electric generating plant furnishing light to the ranch buildings and barns as electric power is not available as hereinafter shown. Said registrant as Assistant Superintendent takes charge of operations at the Ranch Headquarters during the necessary absences of the Superintendent at other headquarters while working the cattle at the different ranch locations.

Besides the agricultural products above listed, Sisquoc [25] Ranch Company produces approximately 1,000 head of beef annually, partly from the range, but mostly from finishing beef pens. Beef cattle are finished by the use of rolled barley, produced and milled at the ranch, barley and alfalfa hay, together with cottonseed and [26]

Re: Homer Sheldon Green

March 3, 1945

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molasses purchased.

Attached statement from the Farm Labor Office, Agricultural Extension Service, Santa Maria, California, affirms that replacement of registrant is not possible. Under the Tydings' Amendment to the Selective Service Act, it is now submitted that said registrant is essential to the production of beef and other necessary foodstuffs and can not be replaced and that his deferment should be continued.

Attached statement from the electric power company, indicating that availability of electric power is indefinite, confirms the need of the services of the registrant to the end that the gas engine power for the pumping of water under his supervision be not curtailed.

Under date of January 22, 1945, statement attributed to Draft Director David Hershey reported that "Farmers under twenty-one will still be deferred if they come under the provisions of the Tydings' Amendment."

Under date of January 23, 1945, Sisquoc Ranch Company requested Santa Barbara County U. S. Department of Agriculture War Board to appeal the case of registrant, HOMER SHELDON GREEN, reclassified from 2-C to 1-A on December 21, 1944. It is now our information that Santa Barbara Appeal Board has retained said registrant in 1-A.



Sisquoc Ranch Company now submits that labor conditions have become even more acute, with the result that services of registrant, as Assistant Superintendent, are now more necessary to employer than heretofore; that said registrant clearly and manifestly is covered by the provisions of the Tydings' Amendment to the Selective Service Act; that, in view of the above newly developed facts, action of the Appeal Board should be reconsidered, on the [27] ground that said registrant is an ESSENTIAL AND NECESSARY MAN IN AGRICULTURE.

Re: Homer Sheldon Green

March 3, 1945

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On July 22, 1944, registrant, after appropriate procedure by appeal from 1-A Classification, was reclassified in 2-C. For the succeeding eight months, registrant has become more firmly established as an ESSENTIAL WORKER IN AGRICULTURE. Any change now from said determined 2-C Classification would appear inconsistent.

Attached statement from Farm Labor Office affirms that registrant can not be replaced. His loss will seriously impair productive operations.

Respectfully submitted,

SISQUOC RANCH COMPANY

R. E. Easton

R. E. Easton, Secretary

Re: Homer Sheldon Green

March 3, 1945

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Supplemental:

The present employees of Sisquoc Ranch Company are as follows:

1. Kenneth L. Winsor, Age 38 yrs., Superintendent. Term of Employment, 2½ years.
2. Homer S. Green, Age 22 yrs., Assistant Superintendent, Term of Employment, 1 year, 5 months.
3. Edmund Yanez, Age Unknown, probably about 30 yrs.; Entered Employ, Sept. 15, 1944.
4. Archie C. Snodgrass, Age 49 yrs.; Entered Employ Oct. 21, 1944.
5. A. G. Webster, Age 17 yrs. (Alabama); entered Employ, Jan. 13, 1945.
6. Francis M. Hunt, Age 51 yrs. (Arizona); Entered Employ, Feb. 1945.
7. Jack McCarthy, Age 32 yrs.; Entered Employ, Feb. 1945.
8. Newton E. Rutherford, Age 37 yrs. (Texas); Entered Employ March 2, 1945; Physical Impairment; Chore Man.

Nos. 3 and 4—Range riders and cattle workers; at present for several days at Tunnell House, 13 miles from Ranch Headquarters.

Nos. 5, 6, 7 and 8—"Floating" labor, which is uncertain and apt to "quit" at any time without notice to employer.

Between December 12, 1944 and January 13, 1945, number of employees besides Superintendent and Assistant Superintendent, was reduced to two in number.

REE:rp [29]

Copy

COOPERATIVE EXTENSION WORK in  
AGRICULTURE and HOME ECONOMICS  
STATE OF CALIFORNIA

University of California and  
U. S. Dept. Of Agriculture  
Cooperating

EXTENSION SERVICE

Santa Maria, California

March 1, 1945

Sisquoc Ranch Company  
P.O. Box 459  
Santa Maria, California

Re: Homer Sheldon Green

Attention: R. E. Easton, Secretary

Dear Mr. Easton:

At this time I regret to inform you that we have no-  
body on our list who could take over the work which  
you describe as being done by Mr. Green.

About the only ones coming to our office these days  
are 4F's, looking for common labor jobs.

Very truly,

ERNEST R. HENSLEY (Signed)  
Emergency Farm Labor Field  
Assistant [30]

Copy

PACIFIC GAS AND ELECTRIC COMPANY  
SANTA MARIA, CALIFORNIA

Santa Maria, California

March 2, 1945

Mr. R. E. Easton  
Santa Maria, California

Dear Mr. Easton:

Some weeks ago we negotiated with you about the possibility of extending our distribution system to make electric service available to you on the Sisquoc Ranch.

Please be advised that at the time this and similar extensions were surveyed the problem before us was twofold: first, obtaining authorization from the California Railroad Commission for the liberalization of our extension rule, and second, obtaining authorization from the War Production Board to use the required line materials.

The first has been accomplished; although our application to the War Production Board has been filed, the Board has not as yet given us blanket authorization to use material to the extent necessary.

We are therefore unable at this time to supply anything in the way of information as to when the extension may be approved. It is, however, our opinion that approval will not be received in the near future.

We assure you of our continued interest and cooperation.

Very truly yours,

GEO. V. FOOTMAN (Signed)

District Manager [31]

[Endorsed]: Filed Apr. 6, 1945.

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE

Good cause appearing therefor, and upon reading the verified petition in the above matter on file herein, and due deliberation having been made thereon:

It Is Hereby Ordered that Colonel W. W. Hicks, Commanding Officer of Fort MacArthur, or whosoever is or are charged with the custody of Homer Sheldon Green, appear before this Court on the 16 day of April, 1945, at the hour of Eleven o'clock in the forenoon, of said day, to show cause, if any he or they have, why a writ of habeas corpus should not be issued herein, as prayed for:

And It Is Further Ordered that a copy of this Order be served on Colonel W. W. Hicks, Commanding Officer of Fort MacArthur, and also on such other person or persons, if any, who has or have Homer Sheldon Green in custody;

And It Is Further Ordered that the said Colonel W. W. Hicks, or whosoever has or have Homer Sheldon Green in custody, retain [32] the said Homer Sheldon Green in his or their custody and within the jurisdiction of this Court until its further order herein;

And It Is Further Ordered that copies of this Order to Show Cause, and the Petition herein, be served on the United States Attorney for the Southern District of California.

Dated at Los Angeles, California, this 6 day of April, 1945.

J. F. T. O'CONNOR  
District Judge

[Endorsed]: Filed Apr. 6, 1945. [33]

[Title of District Court and Cause.]

### RETURN TO ORDER TO SHOW CAUSE

Comes Now Max Roth, Respondent, and makes return to the order heretofore entered in this cause requiring Respondent to show cause why a Writ of Habeas Corpus should not issue herein:

Respondent avers that he is a Lt. Colonel, Infantry, Army of the United States, Commanding Reception Center and Induction Station, at Ft. MacArthur, California:

That on April 6, 1945, the said Homer Sheldon Green reported at Ft. MacArthur Armed Forces Induction Station pursuant to an Order directing him so to do issued by Local Board No. 144, Santa Barbara County, California, pursuant to the provisions of the Selective Service and Training Act and the regulations promulgated pursuant thereto, and took the oath for induction into the Army of the United States and was then and there duly inducted into the Army of the United States and assigned serial number 39743195: [34]

That said Homer Sheldon Green is not detained or restrained of his liberty except as set forth above, but that he is now a member of the Army of the United States and subject to the Articles of War and to the rules and regulations of the Army and to the orders of the officers of the Army of the United States, including this Respondent:

That Respondent has no information as to the steps and proceedings leading up to the classification and induction of the said Homer Sheldon Green except as set forth in the petition for Writ of Habeas Corpus filed herein, but Respondent is informed and believes that all proceedings concerning the classification of said Homer Sheldon Green,

the order to report for induction, and his said induction were carried on pursuant to and in accordance with the provisions of the Selective Service and Training Act of 1940 and the rules and regulations promulgated pursuant thereto:

Respondent avers that he is without knowledge or information sufficient to form a belief as to the truth of any of the allegations in the petition set forth except those herein specifically admitted or denied, and therefore Respondent denies each of said allegations.

Wherefore, Respondent says that the Writ of Habeas Corpus as herein prayed should be denied.

Dated: April 12, 1945.

MAX ROTH

Lt. Colonel, Infantry, Army of the United States, Commanding Reception Center and Induction Station, Ft. MacArthur, Calif.

[Verified.]

[Endorsed]: Filed Apr. 16, 1945. [36]

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[Minutes: Monday, April 16, 1945]

Present: The Honorable J. F. T. O'Connor, District Judge.

This matter coming on for hearing on order to show cause, filed April 6, 1945, directed to Colonel W. Hicks, Commanding Officer of Fort MacArthur, or whomsoever is charged with the custody of Homer Sheldon Green, to show cause why a Writ of Habeas Corpus should not be issued; Messrs. Overton, Lyman, Plumb, Prince, and Ver-

mille by Attorney Vermille appearing as counsel for the petitioner; Robert E. Wright, Assistant U. S. Attorney, appearing as counsel for the Government; and H. A. Dewing, Court Reporter, being present and reporting the proceedings:

Attorney Vermille moves to amend the petition. It is so ordered and amendment is made to pages 2 and 7. Attorney Wright argues in opposition.

It is ordered that the matter be, and it hereby is, continued to 2 P. M. At 2:14 P. M. court reconvenes and all being present as before, Attorney Wright resumes argument to the Court. At 2:51 P. M. Attorney Vermille argues in reply. Attorney Wright argues further.

It is ordered that the matter be submitted, Attorney Wright to file written return to order, submitting same on briefs to be filed by April 23, 1945, and April 27, 1945. [37]

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[Minutes: Thursday, May 31, 1945]

Present: The Honorable J. F. T. O'Connor, District Judge.

This matter having heretofore come before the Court for hearing on order to show cause, filed April 6, 1945, directed to Colonel W. Hicks, Commanding Officer of Fort MacArthur, etc., charged with the custody of Homer Sheldon Green to show cause why a Writ of Habeas Corpus should not be issued: The Court now causes its order to be filed, and, pursuant thereto, the prayer of the petition for said writ is denied. [38]



[Title of District Court and Cause.]

ORDER

Overton, Lyman, Plumb, Prince & Vermille, 733 Roosevelt Bldg., Los Angeles, Calif., Attorneys for Petitioner.

Charles H. Carr, U. S. Attorney, and Ronald Walker and Robert E. Wright, Assistant U. S. Attorneys, 600 Federal Building, Los Angeles 12, Calif., Attorneys for Respondent.

O'Connor, J. F. T., Judge.

\* \* \* \* \*

The petition for a Writ of Habeas Corpus was filed on April 6, 1945 in the above entitled court. The court heard arguments of plaintiff and defendant, and also examined exhaustive briefs filed by both parties.

The court, having considered the same, denies the prayer of the petitioner.

Colonel Max W. Sullivan, Commanding Officer, Fort Lewis, Washington et al vs. John H. Swatzka, May 1, 1945 (9th) ..... F. (2d) .....; Bagley vs. U. S., 144 F. (2d) 788; Local Draft Board vs. Connors, (9) 124 F. (2d) 388; Chin Yow vs. U. S., 208 U. S. 8; Crutchfield vs. U. S., 142 F. (2d) 170; Nelson B. Cramer vs. Colonel Jesse G. France. .... F. (2) ....) (March 29, 1945).

Dated at Los Angeles, California, this 31st day of May, 1945.

J. F. T. O'CONNOR  
Judge

[Endorsed]: Filed May 31, 1945. [39]

[Minutes: Friday, June 1, 1945]

Present: The Honorable J. F. T. O'Connor, District Judge.

On motion of L. K. Vermille, Esq., appearing as counsel for the petitioner, and Robert E. Wright, Esq., Asst. U. S. Attorney, appearing for the Respondent, interposing no objections thereto, it is by the Court ordered that the petitioner herein be granted leave to file an amendment to his petition and that hearing thereon be set for Tuesday, June 5, 1945, at 10 A. M. It is further ordered that restraining order remain in effect until noon of that day. [40]

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[Title of District Court and Cause.]

AMENDMENT TO PETITION FOR WRIT OF  
HABEAS CORPUS

To the Honorable the Judges of the United States District Court, Southern District of California, Central Division:

Leave of Court having been first duly obtained, the petition of Sisquoc Ranch Company, a corporation, in the above entitled action, is hereby amended as follows:

I.

By striking out paragraph XIII from said petition and substituting in lieu thereof the following:

"XIII.

"That the Tydings Amendment to the Selective Training and Service Act, 50 U. S. C. A. (Appendix) Section 305, subdivision K, provides as follows, in part:

'Every registrant found by a selective service local board \* \* \* to be necessary to and regularly engaged in an agricultural occupation or [41] endeavor essential to the war effort, shall be deferred from training and service in the land and naval forces so long as he remains so engaged and until such time as a satisfactory replacement can be obtained \* \* \*.'

That said Local Board No. 144, in classifying Homer Sheldon Green in Class II-C on or about July 22, 1944, found that said registrant was 'necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort': that in utter disregard of the express requirement of the said Tydings Amendment, that any registrant found to be so engaged shall be deferred from training and service 'so long as he remains so engaged and until such time as a satisfactory replacement can be obtained,' the said Local Board No. 144, on or about December 19, 1944, without any notice of any nature whatsoever given either to your petitioner Sisquoc Ranch Company or Homer Sheldon Green, and acting without any evidence whatsoever either that Homer Sheldon Green did not remain so engaged in an agricultural occupation or endeavor essential to the war effort subsequent to his said classification into Class II-C, or that a satisfactory or any replacement could be obtained for him, and without giving Homer Sheldon Green any hearing whatsoever either before or after said date, and without giving your petitioner any hearing or opportunity for a hearing at any time, reclassified Homer Sheldon Green from Class II-C to Class I-A, thereby making said registrant immediately eligible for service in the Armed Forces of the United States."

## II.

By striking out paragraph XIV from said petition and substituting in lieu thereof the following:

## "XIV.

"That on or about December 23, 1944, your petitioner and Homer Sheldon Green received notice of the afore-said re- [42] classification action by the said Local Board; that on the same date, after receiving said notice of reclassification, your petitioner wrote a letter to said Local Board No. 144, giving notice of appeal from said reclassification and requesting a personal appearance before said Local Board.

"That on or about January 2, 1945, your petitioner wrote another letter to the said Local Board regarding registrant Homer Sheldon Green, the body of which letter reads as follows:

'The above registrant has been in the employ of Sisquoc Ranch Company for over one year and is fully conversant with the fixed plants, consisting of gas engine units, as well as the tractor and bulldozer equipment, of which he is a skilled operator.

'He is now to be placed in charge of cattle feeding operations during the winter months involving the proper rationing to the beef cattle with which he is familiar.

'He is a man of exceptional mechanical ability.

'It is now submitted that said registrant is a very necessary man in agriculture and can not be replaced. His loss will seriously affect the productive capacity of the Sisquoc Ranch Company.'

That the said letter of January 2, 1945, was received by said Local Board on or about January 4, 1945, and was thereupon filed in, and made a part of, the records of

said Local Board on Homer Sheldon Green; that on or about January 25, 1945, the said Local Board, without any notice to your petitioner, and without giving your petitioner any opportunity for a personal appearance or hearing before said Local Board despite your petitioner's said written request of December 23, 1944, forwarded its records on Homer Sheldon Green to the Appeal Board. [43]

"That on or about January 30, 1945, the said Appeal Board, without a dissenting vote, affirmed the action of the said Local Board in reclassifying Homer Sheldon Green from Class II-C to Class I-A and classified Homer Sheldon Green in Class I-A, despite the fact that there was no evidence whatsoever in said Local Board record either that Homer Sheldon Green did not remain engaged in an agricultural occupation or endeavor essential to the war effort subsequent to his classification to Class II-C on or about July 19, 1944, or that a satisfactory, or any, replacement for him could be obtained, and despite the fact that said Appeal Board knew and there was substantial and uncontradicted evidence in the said record, that the said Homer Sheldon Green did remain so engaged and in fact could not be replaced; that your petitioner Sisquoc Ranch Company and Homer Sheldon Green were advised of such action by said Appeal Board through a Classification Advice dated February 27, 1945; that subsequently on March 3, 1945, your petitioner Sisquoc Ranch Company, by letter, requested said Local Board No. 144, to reclassify Homer Sheldon Green into Class II-C; that a copy of said letter is attached hereto, marked Exhibit C, and made a part of this petition."

### III.

By striking out paragraph XIX from said petition and substituting in lieu thereof the following:

## "XIX.

"That the aforesaid reclassification of Homer Sheldon Green from Class II-C into Class I-A on or about December 19, 1944, the said action of the said Appeal Board on or about January 31, 1945, in affirming the said reclassification action of said Local Board and in classifying Homer Sheldon Green in Class I-A, the said induction order, the said induction of Homer Sheldon Green into the Armed Forces of the United States, and the present detention, confinement, restraint and custody of Homer Sheldon [44] Green by Colonel W. W. Hicks and whomsoever else may hold Homer Sheldon Green in custody, as aforesaid, and each of said acts, were and are arbitrary, capricious, unlawful, illegal, null and void, without any authority at law, and in violation of the rights of Homer Sheldon Green and your petitioner under the Selective Training and Service Act, and in particular the Tydings Amendment thereto (Title 50 App. U. S. C. A. Sec. 305, Subd. K), and in violation of the rights of Homer Sheldon Green and your petitioner under the Constitution of the United States, and in particular under the Fifth Amendment thereto, in that:

"(1) The said Local Board, on or about December 19, 1944, reclassified Homer Sheldon Green from Class II-C to Class I-A without giving any notice of any kind whatsoever either to your petitioner or Homer Sheldon Green.

"(2) The said reclassification action of said Local Board was not supported by any evidence whatsoever either that Homer Sheldon Green did not remain engaged in an agricultural occupation or endeavor essential to the war effort subsequent to his classification in Class II-C on or about July 19, 1944,

or that a satisfactory, or any, replacement for him could be obtained.

“(3) The said Local Board gave your petitioner no hearing on the said reclassification action by the said Local Board of Homer Sheldon Green from Class II-C to Class I-A, even though a written request therefor had been promptly made.

“(4) The said Appeal Board affirmed the action of the said Local Board in reclassifying Homer Sheldon Green from Class II-C to Class I-A and classified Homer Sheldon Green in Class I-A despite the fact that there was no evidence in said Local Board record before it either that Homer Sheldon Green did not remain engaged in an agricultural [45] occupation or endeavor essential to the war effort subsequent to his classification in Class II-C on July 19, 1944, or that a satisfactory, or any, replacement for him could be obtained, and despite the fact that said Appeal Board knew and there was substantial and uncontradicted evidence in the said record affirmatively showing that the said Homer Sheldon Green did remain so engaged and in fact could not be replaced.”

OVERTON, LYMAN, PLUMB,  
PRINCE & VERMILLE

By L. K. Vermille

Attorneys for Petitioner

[Verified.]

[Endorsed]: Filed Jun. 5, 1945. [47]

[Minutes: Tuesday, June 5, 1945]

Present: The Honorable J. F. T. O'Connor, District Judge.

This matter coming on for hearing on motion of petitioner for leave to file an amendment to petition for Writ of Habeas Corpus, said motion having been filed on June 4, 1945; L. K. Vermille and Carl J. Schuck, Esqs., appearing for the petitioner; Robert E. Wright, Esq., Asst. U. S. Attorney, appearing for the Respondent; C. W. McClain, Court Reporter, being present and reporting the proceedings during the latter part only:

Attorney Schuck argues in support of motion to file amendment to the petition and moves that the petitioner be allowed to amend his petition as indicated in the amendment to the petition for Writ of Habeas Corpus. The amendment is allowed to be filed, the Government not objecting thereto as to the filing. Attorney Schuck now argues on the petition as amended. Attorney Wright argues in opposition. The Court makes the following statement:

Let the record show that the amendment to the petition for Writ of Habeas Corpus has been considered by the Court and that the Government has consented to the filing of the amendment to the petition for a Writ of Habeas Corpus and that the Court allowed the amendment to be filed. It is the opinion of the Court that the petitioner, the employer of the registrant, has not claimed exemption and was not entitled to notice, and that the contractual relation of the Ranch Company and the registrant, Homer Sheldon Green, did not supersede the general welfare of the nation and did not give the



Ranch Company, the employer, a standing contended for by the petitioner. The Court sees no reason why, in view of the statement of the Government that [48] there is no dispute with reference to the facts stated in the petition and amended petition, there should be any necessity for a hearing. It is, therefore, assumed that all of the facts stated in the amendment to the petition and the petition for Habeas Corpus are conceded by the Government, the same as if a hearing were held. The issuance of a writ will, therefore, be denied and exception allowed to the petitioner, the Sisquoc Ranch Co. in its own behalf and in behalf of Homer Sheldon Green, as alleged in the petition for a Writ of Habeas Corpus.

Thereupon, Carl J. Schuck, Esq., appearing for the petitioner, requests the Court to keep the restraining order in force and effect against the removal of Homer Sheldon Green from the jurisdiction of this Court and to keep the restraining order in force until such time as the final order of this Court is signed and until such time as counsel for the petitioner has received notice of the entry of that order, as counsel for the petitioner intends to appeal from the final order in this case, and asks that the restraining order remain in effect until such time as petitioner has filed notice of appeal.

Thereupon, at the hour of 11:40 A. M. the Court signs order that the petition for a Writ of Habeas Corpus be denied and that the order enjoining Colonel W. W. Hicks, or such other or others, to retain said Homer Sheldon Green in his or their custody and within the jurisdiction of this Court, be dissolved, which order is filed and entered in Civil Order Book 33, page 191.

At 11:45 A. M. notice of appeal is filed and copy given to counsel for the Government. [49]

[Title of District Court and Cause.]

Before the Honorable J. F. T. O'Connor

HEARING ON AMENDMENT OF PETITIONER  
TO PETITION FOR WRIT OF HABEAS  
CORPUS

Appearances:

For the Petitioner: L. K. Vermille, Esq. and  
Carl J. Schuck, Esq.,  
733 Roosevelt Building,  
Los Angeles, California.

For-the Government: Charles H. Carr, Esq.,  
United States Attorney; by  
Robert E. Wright, Esq.,  
Assistant United States At-  
torney. [51]

Los Angeles, California, Thursday, June 5, 1945.

10:00 A. M.

The Court: Let the record show that the amendment to the petition for the Writ of Habeas Corpus has been considered by the court, and the government has consented to the filing of the amended petition for a Writ of Habeas Corpus, and the court allows the amendment.

The court has stated before that in these matters the courts are liberal in permitting amendments, so that all of the issues may be determined by the court. The government made the further statement that a hearing on the Writ of Habeas Corpus could add nothing to the rather carefully prepared petition and affidavit attached thereto, and the record attached thereto, and the additional matters that are presented in the amendment to the petition for Writ of Habeas Corpus.

It will be noted that the registrant, Homer Sheldon Green, has not himself made any application or request to the local board for a deferment, under the Tydings Amendment to the Selective Service Training and Service Act, (Appendix) Section 305, Subdivision K, which provides in part that, "Every registrant found by a Selective Service Local Board to be necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort, shall be deferred from training and service in the land and naval forces so long as he remains so engaged and until such time [52] as a satisfactory replacement can be obtained."

The record further shows that the local draft board, No. 144, in classifying Homer Sheldon Green in Class II-C on or about July 22, 1944, found that registrant was both "necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort"; that thereafter the local board reclassified Green in Class I-A, and the registrant immediately became eligible for service in the armed forces of the United States; that the registrant was notified of his classification; that his employer, the Ranch Company and petitioner, requested a hearing under the reclassification, which was denied by the local board; that an appeal was taken by the employer of Green, the Ranch Company, and, by unanimous vote of the Appeal Board, the classification in which Green was placed by the local board was affirmed.

It is the opinion of the court that petitioner, the employer of the registrant, was not entitled to notice, and that the contractual relation of the Ranch Company and the registrant, Green, did not supersede the general welfare of the Nation, and did not give the Ranch Company, the employer, the standing contended for by the petitioner.

The court sees no reason why, in view of the statement of the Government, that there is no dispute with reference to the facts stated in the petition and the amended petition, there should be any necessity for a hearing. It will there- [53] fore be assumed that all of the facts stated in the petition and the amendment to the petition for the Writ of Habeas Corpus are conceded by the Government, the same as if a hearing were held. Issuance of the Writ will therefore be denied, and an exception will be allowed to the petitioner, the Ranch Company, the corporation, in its own behalf, as stated in its petition, and on behalf of Homer Sheldon Green as alleged in its petition for a Writ of Habeas Corpus.

[Endorsed]: Filed Jul. 5, 1945. [54]

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In the District Court of the United States in and for the  
Southern District of California

Central Division

No. 4369-O'C

In the Matter of the Petition of SISQUOC RANCH  
COMPANY, a corporation, on its own behalf, and on  
behalf of HOMER SHELDON GREEN, for a Writ  
of Habeas Corpus.

#### ORDER

Upon reading amended Petition for the issuance of a Writ of Habeas Corpus, and the papers and exhibits attached thereto, and after hearing L. K. Vermille, Esq., attorney for the relator in support thereof, and due deliberation having been had, it is

Ordered that the said Petition for a Writ of Habeas Corpus be, and the same hereby is denied; and

It Is Further Ordered that the Order heretofore entered in this cause and directed to "Colonel W. W. Hicks or whosoever has or have Homer Sheldon Green in custody", enjoining said Colonel W. W. Hicks or such other or others to retain said Homer Sheldon Green in his or their custody and within the jurisdiction of this Court, be and the same hereby is dissolved.

Dated this 5th day of June, 1945.

J. F. T. O'CONNOR

United States District Judge

Judgment entered Jun. 5, 1945. Docketed Jun 5, 1945. Book C. O. 33, Page 191. Edmund L. Smith, Clerk, by Francis E. Cross, Deputy.

[Endorsed]: Filed Jun. 5, 1945. [55]

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[Title of District Court and Cause.]

### NOTICE OF APPEAL

Notice Is Hereby Given that Sisquoc Ranch Company, a corporation, petitioner in the above entitled action, on its own behalf and on behalf of Homer Sheldon Green, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the Order entered in this action on the 5th day of June, 1945.

OVERTON, LYMAN, PLUMB,  
PRINCE & VERMILLE

By L. K. Vermille

Attorneys for Petitioner

[Endorsed]: Filed Jun. 5, 1945. [56]

[Title of District Court and Cause.]

STIPULATION AS TO RECORD ON APPEAL

It Is Hereby Stipulated and Agreed by and between the parties hereto, through their respective attorneys of record, pursuant to Rule 75(f) of the Federal Rules of Civil Procedure, that the following parts of the record and proceedings be included in the record on appeal:

- (1) Petition for Writ of Habeas Corpus;
- (2) Order to Show Cause;
- (3) Return to Order to Show Cause;
- (4) Order dated May 31, 1945;
- (5) Minute Order dated June 1, 1945, giving petitioner until June 5, 1945, within which to apply for leave to amend;
- (6) Amendment to Petition for Writ of Habeas Corpus;
- (7) Opinion rendered June 5, 1945;
- (8) Order dated June 5, 1945; [57]
- (9) Notice of Appeal filed June 5, 1945.

Dated this 29th day of June, 1945.

OVERTON, LYMAN, PLUMB,  
PRINCE & VERMILLE

By L. K. Vermille

Attorneys for Petitioner

CHARLES H. CARR

United States Attorney

RONALD WALKER and

ROBERT E. WRIGHT

Assistant U. S. Attorneys

By Robert E. Wright

Attorneys for Respondent

[Endorsed]: Filed Jun. 29, 1945. [58]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 58 inclusive contain full, true and correct copies of Petition for Writ of Habeas Corpus; Order to Show Cause; Return to Order to Show Cause; Minute Orders Entered April 16, 1945 and May 31, 1945; Order; Minute Order Entered June 1, 1945; Amendment to Petition for Writ of Habeas Corpus; Minute Order Entered June 5, 1945; Opinion Rendered June 5, 1945; Order filed and entered June 5, 1945; Notice of Appeal and Stipulation as to Record on Appeal which constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$12.15 which sum has been paid to me by appellants.

Witness my hand and the seal of said District Court this 11 day of July, 1945.

[Seal]

EDMUND L. SMITH,

Clerk.

By Theodore Hocke

Chief Deputy Clerk

[Endorsed]: No. 11096. United States Circuit Court of Appeals for the Ninth Circuit. Sisquoc Ranch Company, a Corporation, on its own behalf and on behalf of Homer Sheldon Green, Appellants, vs. Max Roth, Lt. Colonel, Infantry, Army of the United States, Appellee. Transcript of Record. Upon Appeal From the District Court of the United States for the Southern District of California, Central Division.

Filed July 12, 1945.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for  
the Ninth Circuit.



In the United States Circuit Court of Appeals  
for the Ninth Circuit

No. 11096

SISQUOC RANCH COMPANY, a Corporation, on its  
own behalf and on behalf of HOMER SHELDON  
GREEN,

Appellant,

vs.

COL. W. W. HICKS, Commanding Officer of Fort Mac-  
Arthur, and LT. COL. MAX ROTH, Commanding  
Officer of Reception Center and Induction Station,  
Fort MacArthur,

Appellees.

APPELLANT'S STATEMENT OF THE POINTS TO  
BE RELIED UPON AND DESIGNATION OF  
THE PARTS OF THE RECORD FOR CON-  
SIDERATION

Statement of the Points to Be Relied Upon

I.

That the District Court erred in denying the petition as amended in that the following facts alleged therein constitute sufficient ground for the granting of said petition: That the Local Board reclassified Homer Sheldon Green from Class II-C to Class I-A without giving any notice of any kind whatsoever either to Sisquoc Ranch Company or to Homer Sheldon Green.

II.

That the District Court erred in denying the petition as amended in that the following facts alleged therein con-

stitute sufficient ground for the granting of said petition: That the reclassification action of the Local Board on or about December 19, 1944, was not supported by any evidence whatsoever either that Homer Sheldon Green did not remain engaged in an agricultural occupation or endeavor essential to the war effort subsequent to his classification in Class II-C on or about July 19, 1944, or that a satisfactory, or any, replacement for him could be obtained.

### III.

That the District Court erred in denying the petition as amended in that the following facts alleged therein constitute sufficient ground for the granting of said petition: That the Local Board gave Sisquoc Ranch Company no hearing on the said reclassification action by the Local Board of Homer Sheldon Green from Class II-C to Class I-A, even though a written request therefor had been promptly made.

### IV.

That the District Court erred in denying the petition as amended in that the following facts alleged therein constitute sufficient ground for the granting of said petition: That the Appeal Board affirmed the action of the Local Board in reclassifying Homer Sheldon Green from Class II-C to Class I-A and classified Homer Sheldon Green in Class I-A despite the fact that there was no evidence in the Local Board record before it either that Homer Sheldon Green did not remain in an agricultural occupation or endeavor essential to the war effort subsequent to his classification into Class II-C on July 19, 1944, or that a satisfactory, or any, replacement for him could be obtained, and despite the fact that the Appeal Board knew and there was substantial and uncontradicted evidence in

the record affirmatively showing that Homer Sheldon Green did remain so engaged and in fact could not be replaced.

V.

That the District Court erred in denying appellant's petition for a writ of habeas corpus, as amended.

VI.

That the District Court erred in dissolving the restraining order requiring Col. W. W. Hicks, or whosoever had Homer Sheldon Green in custody, to retain Homer Sheldon Green in custody and within the jurisdiction of the District Court.

Designation of Parts of Record for Consideration

I.

All parts of the record and proceedings specified in Stipulation as to Record on Appeal dated June 29, 1945.

II.

Stipulation as to Record on Appeal dated June 29, 1945.

Dated this 5th day of July, 1945.

OVERTON, LYMAN, PLUMB,  
PRINCE & VERMILLE

By L. K. Vermille

Attorneys for Appellant Sisquoc Ranch Company

Received copy of the within Appellants' Statement, etc., this 5th day of July, 1945. Charles H. Carr, United States Attorney. RM.

[Endorsed]: Filed Jul. 12, 1945. Paul P. O'Brien, Clerk.

